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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKHARAI AH

WRIT PETITION NOS.5393-5396/1991.

BETWEEN:

1. Smt.Manorama Manohar
Hosmani, Age: 46 years,
Occ: Household, R/o. Plot No.1,
in S.No.709/2B/1,
S.No.709/2A/2, Rani Channamma
nagar, Tilakwadi, Belgaum.

2. Smt.Jayashree Mahadev Hosmani,
Age: 50 years, Occ: Household,
R/o.Plot No.1, S.No.709/2B/1,
S.No.709/2A/2, Rani Channamma-
nagar, Tilakwadi, Belgaum.

3. Smt.Akkatai @ Rukmini Fakira,
Majukar, age: about 60 years,
Occ: Household, R/o.Majagaon,
Belgaum.

4. Sri.Yallappa Ganapati Waha-
purkar, @ Majukar, age: about
55 years, Occ: Primary School
Teacher, R/o.Majagaon, Belgaum.

: PETITIONERS
respectively.

(Sri.S.R.Shinde for Petitioners)

AND:

1. The State of Karnataka,
by its Secretary, Housing Urban
Development Department,
M.S.Buildings, Bangalore-1.

2. The Belgaum Urban Development
Authority, by its Chairman,
Belgaum.

: RESPONDENTS

(Sri.M.Mahabaleswar Goud for R-2.
Sri.K.Nagaraja, HCGP, for R-1)

These Writ Petitions filed under Articles 226
and 227 of the Constitution of India with an affi-
davit praying to quash annexures K and L dt.15.1.77
and 7-4-80 No.IB.LAQ.SR.6 and HUD.88 MIB.77 and
notices annexures M, N, O, P, Q, R bearing No.Bin
Patra,Bhusav.6/9/90-91 dt.12.4.90 and further
annexures vide annexures K & L and etc.,

These Writ Petitions coming on for hearing
this day, the Court made the following:

O R D E R

T.by:JL (c.t. only)

R.by: *[Signature]* 10/11/94

C.by: *[Signature]*

CSJ

June 30, 1998.

WRIT PETITIONS 5393 to 5396/91.

The petitioners are the owners of certain bits of land in Survey No.709 of Angol village in Belgaum Taluk. The said lands were proposed for acquisition under a preliminary notification dated 15-1-1977 issued under section 15(4) of the Karnataka/^{City}Improvement Board's Act 1956, which was followed by a final notification dated 25-5-1979 issued under Section 18 of the said Act. These notifications are under challenge in these writ petitions.

2. The learned counsel for the petitioners submitted that the acquisition is vitiated as the petitioners were not served with any notice pursuant to the preliminary notification and further submitted that they were not aware of the acquisition proceedings. In reply to the said submission, the learned counsel for the second respondent submitted that these petitions are liable to be dismissed solely on the ground of delay and laches. Further it is submitted that the petitioners were not right in stating that they were not aware of the acquisition proceedings, since they were served with notice issued under Section 9 and 10 of the Land Acquisition Act in the year 1981 itself. In support of this, the second respondent has produced the copies of the notice served on

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the petitioners, which shows that the petitioners were served with the notice in the year 1981 itself. If that is so, the writ petitions filed in the year 1991 are liable to be dismissed on the ground of delay and laches as they are filed after 10 years from the date of the knowledge. ✓

3. The respondent, along with the statement of objections filed to-day in Court, has produced the mahazar as per Annexure R-6. In the mahazar it is seen that the second respondent was not in a position to take possession of 3 guntas of land from the first petitioner on the ground that the first petitioner, after constructing the building, is residing in the said property. Since the first petitioner has constructed the building and is residing there, it is just and proper to direct the second respondent to allot 3 guntas of land where the house of the first petitioner is existing in her favour by collecting the value of the site, as charged to similar sites, if compensation is paid to the first petitioner in respect of the said 3 guntas of land. ✓

4. With these observations, these writ petitions are rejected.

Sd/-
JUDGE

KVS.



